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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/628,226

07/28/2003

Jurgis Astrauskas

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01/25/2007

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EXAMINER

TRAN, DZUNG D

ART UNIT

PAPER NUMBER

2613

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.		Applicant(s)	
	10/628,226		ASTRAUSKAS, JURGIS	
	Examiner		Art Unit	
	Dzung D. Tran		2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The new limitation "a visible light data signal" that amended in independent claims 1, 7, 13 which was not described in the specification.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 7 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Meyer et al. U.S. Patent no. 5,933,812.

Regarding claim 7, Meyer discloses in Figures 1 and 17A, a method/apparatus for bi-directional optical communication with a device external to the probe, the probe comprising:

an optical transmitter D2 for mounting in proximity to an external device (e.g., computer 60), the optical transmitter including a light emitting diode (LED) that generates light pulses in accordance with a data signal (col. 17, lines 22-23); and

an optical receiver Q1 for mounting in proximity to the external device (e.g., computer 60), the optical receiver for generating an electrical data signal from an optical data signal impinging upon the optical receiver (col. 17, lines 21-22).

Regarding claim 8, Meyer discloses the sensitive phototransistor is stimulated to generate current in response to light in the range of 10 to 30 lx (col. 20, lines 30-31).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6, 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer et al. U.S. Patent no. 5,933,812 in view of Baker et al. U.S. Patent no. 7,019,492.

Regarding claims 1, 9 and 13, Meyer discloses in Figures 1 and 17A, an apparatus for bi-directional optical communication with a device external to the probe, the probe comprising:

an optical transmitter D2 for mounting in proximity to an external device (e.g., computer 60), the optical transmitter including a light emitting diode (LED) that generates light pulses in accordance with a data signal (col. 17, lines 22-23); and

an optical receiver Q1 for mounting in proximity to the external device (e.g., computer 60), the optical receiver for generating an electrical data signal from an optical data signal impinging upon the optical receiver (col. 17; lines 21-22).

Meyer does not specifically disclose the optical transmitter including a high intensity light emitting diode (LED).

Baker discloses in Figure 2, an optical transmitter 90 including a high intensity light emitting diode (LED) (col. 3, lines 60-67).

At the time of the invention was made, one of ordinary skill in the art would have been obvious to replace the well known high intensity light emitting diode (LED) taught by Baker with the LED D2 in the apparatus of Meyer. One of ordinary skill in the art would have been motivated to do that in order to illuminate the super bright light which is more visible than a normal LED.

Regarding claims 2, 11 and 14, whether or not to set the high intensity LED generates light more intense than the light generated by an indicator light of an appliance is merely an engineering design choice. At the time of the invention was

make, one of ordinary skill in the art would have been motivated to do that in order to met the requirement of the apparatus.

Regarding claims 3, 10 and 15, wherein the high intensity LED generates light that is more intense than a standard LED is well known in the art.

Regarding claims 4, 12 and 16, Baker discloses the high intensity LED generates light in the range of 6,000 to 10,000 millicandelas (col. 3, lines 63-67) that is in the range of approximately 8000 millicandelas to approximately 31,000 millicandelas.

Regarding claim 5, Meyer discloses the optical receiver further comprising: a sensitive phototransistor for generating the electrical data signal (col. 17, lines 21-22).

Regarding claims 6 and 18, Meyer discloses the sensitive phototransistor generates a collector photo current of 10 mA (col. 20, lines 30-33) which approximately 5 to 15 mA in response to a light pulse of 100 lx.

Regarding claim 17, Meyer discloses the sensitive phototransistor is stimulated to generate current in response to light in the range of 10 to 30 lx (col. 20, lines 30-31).

Response to Arguments

7. Applicant's arguments filed on 06/23/2005 have been fully considered but they are not persuasive.

A) Rejection claims 1-18 under 35 USC 103(a) as being unpatentable over Meyer et al. U.S. Patent no. 5,933,812 in view of Baker et al. U.S. Patent no. 7,019,492.

Applicant argues that the combination of Meyer and Baker does not disclose the new limitation "a visible light data signal" that amended in independent claims 1, 7, 13 which was not described in the specification.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dzung D Tran whose telephone number is (571) 272-3025. The examiner can normally be reached on 9:00 AM - 7:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dzung Tran
01/12/2007


DZUNG TRAN
PRIMARY PATENT EXAMINER